

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

EUCLIDES SOTO, LOUIS A. MARTINEZ,
JOSE RAMIREZ, CLEMENTE HERNANDEZ,
CESAR PIZARO, ELISON PENA,
JUAN COLON, JOSE ORTIZ, RAFAEL TORRES,
ANGEL BAEZ, ANTONIO MARTINEZ,
WILFREDO ORTIZ, EULOGIO ORTIZ,
MIRRAIN MIRANDA, RAFAEL MORENO,
NELSON ACEVEDO, and
RAMON RODRIQUEZ,

Plaintiffs,

v.

UNITED STEELWORKERS OF AMERICA,
LOCAL 421-U, and UNITED STEELWORKERS
OF AMERICA,

Defendants.

Civil Action No.
04-10892-JLT

**MOTION TO STRIKE PORTIONS OF SECOND AMENDED COMPLAINT,
OR, IN THE ALTERNATIVE, FOR A CONTINUANCE TO ENGAGE IN FURTHER
DISCOVERY REGARDING NEWLY ASSERTED CLAIMS**

Now come the Defendants United Steel, Paper, and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local Union 421-U and United Steel, Paper, and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO/CLC (collectively, the "Union") and hereby file this motion to strike portions of the Second Amended Complaint or, in the alternative, for a continuance to engage in further discovery regarding newly asserted claims. Pursuant to Local Rule 7.1(B)(1), this motion is accompanied by a simultaneously filed memorandum of law.

As grounds for this motion, the Union states that the Plaintiffs failed to seek leave of the Court to amend the complaint in the manner so amended, as required by Rule 15(a) of the Federal Rules of Civil Procedure, and that to allow such modification on the eve of trial would be unduly prejudicial to the Defendants. Alternatively, should the Court choose to allow the newly asserted facts and claims to stand, the Court should grant a continuance and reopen the discovery period because the Union has not had the opportunity to seek discovery on the newly asserted facts or on any matter that fell beyond the 300-day statute of limitations for Title VII claims, 42 U.S.C. §§ 2000e *et seq.*, but that might fall within the 3-year statute of limitations for actions arising under 42 U.S.C. § 1981.

WHEREFORE, for the reasons asserted herein and in the Union's memorandum of law in support of this motion, the Union respectfully requests that the Court strike those portions of the Second Amended Complaint improperly included or, in the alternative, that the Court continue this matter and reopen the discovery period to allow the Union to engage in discovery related to the newly asserted claims.

Respectfully submitted,

Dated: March 23, 2006

s/Alfred Gordon
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served by electronic filing on the attorneys of record for each party on March 23, 2006, and by U.S. Mail on those who cannot receive electronic filings.

s/Alfred Gordon
Alfred Gordon